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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,077	12/06/2001	Lane Thomas Holloway	AUS920010949US1	8820

7590 07/21/2004

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EXAMINER

CHOW, DOON Y

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 07/21/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,077

Applicant(s)

HOLLOWAY ET AL.

Examiner

Dennis-Doon Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-10, 12-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al. (6686911) in view of Rosenberg et al. (6128006).

Levin discloses a mouse device (col. 23, lines 4-6) comprising an audio wheel (col. 5, lines 34-40) for adjusting a volume of an audio output and for adjusting a radio frequency (col. 6, lines 43-50). Levin further discloses fast forwarding through a current audio selection (a current volume selection) while the audio wheel is depressed while simultaneously being moved forward (col. 6, lines 43-50; col. 7, lines 1-4).

Levin differs from the claims in that Levin does not disclose the wheel being rotatable about an axis of rotation being parallel to a surface of the mouse device.

Rosenberg, in the same input field, discloses a mouse device comprising a wheel (16, Fig. 1; 54, Fig. 3A; and 68, Fig. 3B) for controlling audio signals. Rosenberg further discloses the wheel being rotated about an axis of rotation being perpendicular to a surface of the mouse device, or being rotated about an axis of rotation being parallel to the surface of the mouse device (see Figs. 1 3A and 3B).

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In light of Rosenberg, it would have been obvious to one of ordinary skill in the art to mount Levin's wheel in the mouse device so that the wheel being rotatable about an axis of rotation being parallel to the surface of the mouse device. This would have been obvious because Rosenberg teaches that the wheel can be mounted perpendicular to the surface of the mouse so that the wheel being rotated about the axis of rotation being perpendicular to the surface of the mouse device, or parallel to the surface of the mouse so that wheel being rotated about the axis of rotation being parallel to the surface of the mouse device.

3. Claims 5, 10, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al. (6686911) in view of Rosenberg et al. as applied to claims 1-4, 7-10, 12-14 and 17 above, and further in view of Nakazato et al. (JP409162768).

Levin does not disclose toggling a mute in response to the audio wheel being depressed twice

Nakazato discloses using a single control device (a switch) for generating a multiple functions in response to the numbers of time the control device being pressed. Nakazato further discloses generating a mute function in response to the control device being depressed twice.

It would have been obvious to one ordinary skill in the art to use Nakazato's double depress means in Levin's audio wheel for controlling the mute of the audio output. This would have been obvious because Nakazato teaches improving the

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operability by decreasing the number of manual setting members for various functions (see Abstract of Nakazato).

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hinckely et al. teach a mouse comprising a wheel for controlling audio signals (col. 4, lines 5-12).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis-Doon Chow whose telephone number is 703-305-4398. The examiner can normally be reached on 8:30-6:00, Alternate Monday off.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

D. Chow
July 19, 2004


DENNIS-DOON CHOW
PRIMARY EXAMINER